

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 889 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

=====

1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

HAMIR VASHRAM KHATANA

Versus

DISTRICT MAGISTRATE

Appearance:

MS DR KACHHAVAH for Petitioner
MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 02/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective
parties.

2. The petitioner challenges the order of preventive
detention dated 6th October, 1998 made by the District
Magistrate, Bhavnagar under the powers conferred upon him

under Sub-section 2 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. It appears that three offences punishable under Chapters XVI and XVII of the Indian Penal Code and the Arms Act are registered against the petitioner and are pending trial. Besides, four persons have given statements in respect of the nefarious activities of the petitioner and its adverse effect on the public tranquillity and even tempo of life.

4. The order of detention is challenged on several grounds; including the ground that : (a) one of the documents, the bail order at page 14, is not clearly legible and is in English, while the petitioner does not know English language, and therefore, the said ground of detention should be deemed to have not been communicated; (b) the impugned order has been made on 6th October, 1998 i.e., more than 2 months after the date of the last of the offences registered against the petitioner. Neither of the aforesaid contentions is controverted by the detaining authority. In absence of any defence by the detaining authority, the petition is required to be allowed.

5. The petition is allowed. The impugned order dated 6th October, 1998, is therefore, quashed and set-aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

Prakash*